

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESALE PRICE
LITIGATION

)
) MDL NO. 1456
) Civil Action No. 01-12257-PBS
) Subcategory No. 03-10643

THIS DOCUMENT RELATES TO:

)
) Judge Patti B. Saris

The City of New York, et. al.

v.

Abbott Laboratories, et al.

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**PLAINTIFFS' NOTICE OF INTENT TO FILE A RESPONSE TO ANY SUBMISSION
BY DEFENDANTS CONCERNING
THE SUPPLEMENTAL BRIEF OF THE UNITED STATES
ON THE FEDERAL UPPER LIMIT**

Plaintiffs hereby provide notice to the Court of their intention to file a short response to any submission filed by defendants (and accepted by the Court) concerning the Supplemental Brief of the United States on the Federal Upper Limit (Docket No. 6693), dated Wednesday, November 25, 2009. Defendants informed plaintiffs and the Court on December 2, 2009, that such a submission was forthcoming on or before December 9, 2009. Should the Court accept this submission of defendants, plaintiffs respectfully suggest that fairness should permit them an opportunity to respond and that plaintiffs thus would file a short response on or before December 16, 2009.

Dated: December 4, 2009

Respectfully submitted,

**City of New York and New York Counties in
MDL 1456 except Nassau and Orange, by**

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CERTIFICATE OF SERVICE

I, Kathryn Allen, hereby certify that on the 4th day of December 2009, I caused a true and correct copy of the above Plaintiffs Notice of Intent to File a Response to Any Submission by Defendants Concerning the Supplemental Brief of the United States on the Federal Upper Limit to be delivered to counsel of record for defendants by electronic service pursuant to Case Management Order No. 2 entered by the Honorable Patti B. Saris in MDL No. 1456.

Dated: December 4, 2009

/s/ Kathryn B. Allen
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